

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 04-CR-10166-RGS
)	
DAVID C. ARNDT)	
_____)	

**MOTION OF THE DEFENDANT, DR. DAVID ARNDT TO
CORRECT HIS PRE-SENTENCE REPORT**

The Defendant, Dr. David Arndt, moves the Court to correct his Pre-Sentence Report by striking pages 17, 18 and so much of page 19 ending with the work “fluid,” and substituting the following information:

Dr. Arndt on March 16, 2007 plead guilty in Middlesex Superior Court to Indictment Numbers 2002-1569-007, 008 and 009; respectively charging possession of Class A controlled substance: Ketamine Hydrochloride; possession of Class B controlled substance: Methamphetamine; and contributing to the delinquency of a child.

Judge Zobel then imposed the following sentence: On Indictment No. 007 a term of two years in the House of Correction — Sentence Deemed Served; on Indictment No. 008 a term of one year in the House of Correction from and after the sentence imposed on 007 —Sentence Deemed Served; and on Indictment No. 009 five years of probation to commence at the conclusion of the federal sentence he is serving and concurrent with his federal supervised release. The only condition of probation is that Dr. Arndt have no contact with the individuals

referred to in the attached Statement of the Case marked as Exhibit "A." The factual predicate of Dr. Arndt's pleas of guilty are reflected in Exhibit "A."

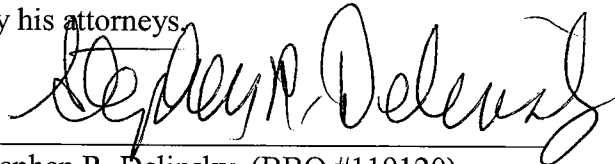
The remaining charges Indictment Nos. 2002-1569-001, 002, 003, 004, 005, and 006 were "'Nolle Prosequi" by the Commonwealth as set out in their Motion attached as Exhibit "B."

Dr. Arndt moves that the Pre-Sentence Report be amended to reflect the facts set out herein in order to demonstrate his current criminal record. It is necessary for Dr. Arndt to have an accurate Pre-Sentence Report in order to be properly classified by the Bureau of Prisons.

Respectfully Submitted,

DAVID C. ARNDT

By his attorneys,



Stephen R. Delinsky (BBO #119120)
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DATED: March 16, 2007

CERTIFICATE OF SERVICE

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on 3-16-07

By: _____

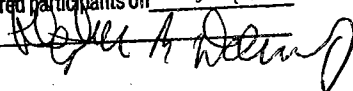


EXHIBIT "A"

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT
NO. 2002-1569-007, 008, 009

COMMONWEALTH

V.

DAVID ARNDT

COMMONWEALTH'S STATEMENT OF THE CASE

The Commonwealth submits the following summary of facts pertaining to counts seven, eight and nine of the indictment. This is not intended as a Bill of Particulars.

On Thursday afternoon September 5, 2002 around 5:30 PM, the fifteen year old teen was waiting outside the Post Office in Central Square for his fourteen year old friend. The forty-two year old defendant was also outside the Post Office smoking a cigarette. The defendant spoke to the teens about a new drug that is crystal meth and asked them if they wanted to go with him to smoke some. The two teens agreed and got into the defendant's 1992 Saab in Central Square Cambridge. The defendant reached for a bag in the back seat and took out a glass pipe, drugs and a lighter.

The defendant drove to the back of Dana Park in Cambridge and showed the teens how to use the pipe. The defendant lit the pipe, took a smoke and handed the pipe to the fourteen year old teen named in count

number nine. The young man took a smoke and passed the pipe to the fifteen year teen.

After several hours of smoking and talking, the fourteen year old teen had to go home and was dropped off by the defendant. Before he got out of the car, the defendant gave the teen his cell phone number and told him his name was David from Boston.

The defendant and the second teen spent several more hours together smoking "crystal meth." The defendant also provided this teen with his cell phone number which the teen called twice over the succeeding two days.

As a result of information given to the Cambridge police on September 10th, Cambridge police detectives spoke to the defendant at the police station. After being given his Miranda warnings, the defendant spoke with the police and admitted to being with the two boys on September 5th. He stated that while driving around Cambridge with them they talked. He said one of the boys got a phone call from his parents and went home. The other boy stayed with him, that he parked his car and they talked for a while. At the conclusion of the interview the defendant was arrested.

The Cambridge police obtained a search warrant for the defendant's 1992 Saab. The police were searching for drugs and other evidence.

Related to counts 007, 008, 009 the police found a bag in the trunk of the defendant's car that contained the following items:

- blue glass vial that contained residue of Ketamine Hydrochloride and Methamphetamine class A and B substances;
- 3 purple straws that contained residue of Methamphetamine and Ketamine Hydrochloride class B and A substances;
- red tube that contained residue of Ketamine Hydrochloride and Methamphetamine class A and B substances;

- metal spoon that contained a residue of Methamphetamine a class A substance;
- glass smoking device that contained a residue of Methamphetamine a class B substance;
- 0.57 grams of off-white rock powder that was 74% Methamphetamine a class B substance.

The Commonwealth would have also offered evidence from the State Police Laboratory that these items were tested and analyzed to be illegal substances in violation of MGL chapter 94C, section 31.

Respectfully submitted
For the Commonwealth,

GERARD T. LEONE, JR.
DISTRICT ATTORNEY

By:

Elizabeth Keeley
Assistant District Attorney
BBO#263910

Dated: March 15, 2007

EXHIBIT "B"

MIDDLESEX, SS COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT
NO. 2002-1569

COMMONWEALTH

V.

DAVID ARNDT

NOLLE PROSEQUI

The Commonwealth files a nolle prosequi of counts one through six of the indictment for the following reasons:

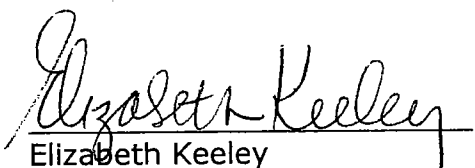
- In October 2002 the defendant was indicted on four counts of rape of a child, one count of indecent assault and battery on person over fourteen, one count of drugging a person for purposes of having unnatural sexual intercourse [counts 1-6], one count of possession of a class A substance and one count of a Class B substance and one count of contributing to the delinquency of a minor [counts 7-9];
- the defendant was released on bail awaiting trial and in August 2003 he was arrested in Boston for drug trafficking and later indicted and arraigned in federal court;
- his bail was revoked on the pending Middlesex indictments and he has been in custody since that arrest;
- in February 2007 the defendant was sentenced on the federal drug charges to ten years in federal prison followed by a period of supervised release;
- the young man involved in the pending sexual assault case is now twenty years old and has conveyed to this office that he does not wish to testify and without his testimony there is

insufficient evidence to prove counts one through six beyond
a reasonable doubt.

This nolle prosequi is filed in the interests of justice.

Respectfully submitted
For the Commonwealth,

GERARD T. LEONE, JR.
DISTRICT ATTORNEY

By: 
Elizabeth Keeley
Assistant District Attorney
BBO#263910

Dated: March 12, 2007